

STATE OF MICHIGAN
COURT OF APPEALS

LAWRENCE F. JASPER II,

Plaintiff-Appellant,

v

KELLER WILLIAMS REALTY
INTERNATIONAL, INC., NORTHVILLE
INVESTMENT GROUP, L.L.C., FAST REAL
ESTATE COMPANY, CURTIS BOTSFORD
REAL ESTATE, L.L.C., d/b/a KELLER
WILLIAMS OF WEST BLOOMFIELD, GHK OF
MICHIGAN, INC., d/b/a KELLER WILLIAMS
REALTY LAKESIDE MARKET CENTER,
GHKR ROCHESTER GROUP, d/b/a KELLER
WILLIAMS OAKLAND MARKET GROUP,
MGM STERLING MARKET GROUP, INC.,
d/b/a KELLER WILLIAMS STERLING
HEIGHTS MARKET CENTER, BLOOMFIELD
BIRMINGHAM MARKET CENTER, d/b/a
KELLER WILLIAMS BLOOMFIELD
BIRMINGHAM MARKET CENTER,
NORTHVILLE MARKET CENTER, INC.,
GARY KELLER, MO ANDERSON, DAVID
JENKS, ANNIE OSBORN, DAVID OSBORN,
MARK WILLIS, CHUCK FAST, MARK
BULLARD, TIM GOSLIN, JOHN DEMORA,
PETER COSTA, GARY REGIESH, KEN
KLAFT, DAVID KLAFT, BUSTER TISDELLE,
RANDY GATES, JAKE HEWITT, EARL KIEM,
CAROL NIESTROM, LARRY HORN, DAVID
BOTSFORD, ANNA GALLO, RUSS MARONE,
DICK BROCK, JERRY STARLING, PHIL
KYBURZ, and CARLO GOBBA,

Defendants-Appellees,

and

UNPUBLISHED

May 22, 2007

No. 273863

Oakland Circuit Court

LC No. 2006-076012-CK

CHARLES CANNON, JOHN PERITAIN, DAN
LIEVIOS, JETT FERM, JIM STRITTMATTER,
RICHARD SPARKS, and MATT EBERLY,

Defendants.

Before: Cooper, P.J., and Murphy and Neff, JJ.

PER CURIAM.

Plaintiff appeals as of right from a circuit court order granting summary disposition to defendants pursuant to MCR 2.116(C)(7) on the basis that plaintiff's claims were barred by res judicata. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

On appeal, plaintiff raises four issues, all of which are poorly briefed. Only one purports to address the basis of the trial court's ruling. Plaintiff asserts that res judicata does not apply because "[t]here are different issues and different parties and different incidents" and because the conduct "was not discovered" by him at the time of the earlier actions and he was "unaware" of it.

Application of the doctrine of res judicata is a question of law that this Court reviews de novo. *Energy Reserves, Inc v Consumers Power Co*, 221 Mich App 210, 216; 561 NW2d 854 (1997). The grant or denial of a motion for summary disposition is reviewed under the same standard. *Id.*

Res judicata bars a subsequent action between the same parties when the evidence or essential facts are identical. A second action is barred when (1) the first action was decided on the merits, (2) the matter contested in the second action was or could have been resolved in the first, and (3) both actions involved the parties or their privies.

Michigan courts have broadly applied the doctrine of res judicata. They have barred, not only claims already litigated, but every claim arising from the same transaction that the parties, exercising reasonable diligence, could have raised but did not. [*Dart v Dart*, 460 Mich 573, 586; 597 NW2d 82 (1999) (citations omitted).]

"The test for determining whether two claims arise out of the same transaction and are identical for res judicata purposes is whether the same facts or evidence are essential to the maintenance of the two actions." *Jones v State Farm Mut Automobile Ins Co*, 202 Mich App 393, 401; 509 NW2d 829 (1993).

Plaintiff has failed to adequately brief this issue. The fact that there are "different parties" does not preclude the application of res judicata if those parties are in privity with parties involved in the earlier action. The fact that there are "different issues" does not preclude the application of res judicata if the claims arose from the same transaction. Arguably, the assertion

that there are “different incidents” is a challenge to whether the same facts or evidence would be “essential to the maintenance of the two actions.” *Jones, supra*. The fact that plaintiff did not discover the conduct would potentially relate to whether he could have brought the claims if he had “exercis[ed] reasonable diligence” *Dart, supra*, p 586. However, plaintiff does not develop an argument on either of these points. Just as a party may not announce a position and then leave it to this Court to search for legal authority to support it, *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998), a party may not announce a position and leave it to this Court to find the factual support for the assertion. This Court’s role as a reviewing court does not include the sifting of allegations in a complaint in order to identify aspects of the claims that arguably did not arise from the same transactions as those resolved in prior litigation in order to develop an argument for a party.

Affirmed.

/s/ Jessica R. Cooper
/s/ William B. Murphy
/s/ Janet T. Neff